

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

lms

Mailed: September 14, 2005

Opposition No. **91161373**

American Italian Pasta Company

v.

Barilla Alimentare S.p.A.

Linda Skoro, Interlocutory Attorney

This case now comes up on opposer's motion for leave to amend its notice of opposition. Applicant has not opposed the motion for leave to amend and has requested an extension of discovery, for applicant only, in the event the Board grants opposer's motion.

Opposer's motion to amend its notice of opposition is granted. Rule 15(a) of the Federal Rules of Civil Procedure encourages courts to look favorably on motions to amend when justice so requires. In deciding such a motion, the Board must consider any undue prejudice. By this motion opposer seeks to add an additional ground, based on information it obtained during discovery. Applicant states that the motion was filed too late to avoid prejudice to applicant.

However, the amended pleading will better provide for a full adjudication on the merits. Further, applicant will not be prejudiced in that neither party has taken any testimony and

because the time periods will be reset to give both sides a full opportunity to address any new issues.

Accordingly, the amended notice of opposition is accepted and applicant has twenty days from the date of this order to file an amended answer. Because the motion to amend the notice of opposition has been granted, and because this matter has been suspended, dates are hereby reset the dates for both parties. Trial dates are rescheduled as follows:

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Discovery period to close:	11/1/2005
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30-day testimony period for party in position of plaintiff to close:	1/30/2006
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30-day testimony period for party in position of defendant to close:	3/31/2006
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15-day rebuttal testimony period to close:	5/15/2006
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Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If the parties stipulate to any extension of these dates, the papers should be filed in triplicate and should set forth the dates in the format shown in this order. See Trademark Rule 2.121(d).

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